



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: May 31, 2011

TO: Ms. Sharon L. Summers, DMMA
Planning & Policy Development Unit

FROM: Daniese McMullin-Powell, ^{DMP/KH}Chairperson
State Council for Persons with Disabilities

RE: 14 DE Reg. 1193 [DMMA Proposed Estate Recovery Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA's) proposal to amend the Medicaid State Plan and add a new estate recovery regulation. The proposed regulation was published as 14 DE Reg. 1193 in the May 1, 2011 issue of the Register of Regulations.

In a nutshell, federal legislation (§115 of MIPPA) was enacted to exempt Medicare cost sharing benefits (paid with Medicaid funds) from estate recovery. The rationale is as follows:

The intent of this provision is to encourage dual eligible beneficiaries to more fully utilize Medicare cost sharing benefits available through the MSPs and allay concerns that Medicaid estate recovery will, after their death, lay claim to recover the value of these cost sharing benefits from their estates.

SCPD endorses the proposed regulation since it appears to conform to the CMS guidance.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position or observations on the proposed regulation.

cc: Ms. Rosanne Mahaney
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council